IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5941 OF 2004

M/s.Alok Enterprises .. Petitioner
V/s
Additional Collector Nashik .. Respondents

Mr.Kishor S.Patil with Mr.P.N.Joshi for Petitioner.
Mr.P.I.Khemani, AGP for Respondent Nos.1 to 3.

CORAM : DR.S.RADHAKRISHNAN J.
DATE : 21st April, 2007.

P.C.:

1. Heard the learned Counsel for the parties. By this Petition, the Petitioner has impugned the order dated 8th June, 2004 passed by the Hon'ble Minister for Food & Civil Supplies and Consumer Protection, whereby the Revision Application filed by the Petitioner challenging the order of the Additional District Collector dated 31st March, 2004 was rejected.

2. It appears that one Anirudha Fekuram Nisad had a vehicle (Tanker) bearing No.MH-04-H-1930 which was carrying 20,000 litres of Nafta from Kandla Port Gujarath to Sulaki Chemicals Pvt.Ltd. MIDC, Lote Tal.Chiplun, Dist.Ratnagiri. While in transit, the said tanker developed certain mechanical problems and as such it was left at the premises of the Petitioner. In addition to the aforesaid tanker, there were other three tankers which were lying at the premises of the Petitioner. Perused the record. The record clearly indicates that with regard to other three tankers belonging to the Petitioner, the Petitioner has produced all the requisite record showing the purchase of

kerosine oil and liquid base oil and the Petitioner is also having requisite licence in that behalf for purchase & storage of the same as seen in Exhibit 'A' to the Petition.

3. Perused the order dated 27.02.2004 passed by the Court of Additional Sessions Judge, Nashik in a Criminal Revision No.46 of 2004 filed by the Anirudha Fekuram Nisad. By the said order the learned Additional Sessions Judge had passed the following order:-

> "Tanker bearing No.MH-04-H-1930 with Nafta therein shall be given to the custody of petitioner Mr.Anirudha Fekuram Nisad on following terms and conditions:-
>
> (i) He shall establish his title to the vehicle and registration in his favour to the satisfaction of Judicial Magistrate, F.C.Igatpuri.
>
> (ii) He shall execute an undertaking before Judicial Magistrate, F.C.Igatpuri to produce the vehicle before the trial Court or the Appellate Court as and when directed, failing which the liability to pay penalty of Rs.15 lakhs.
>
> (iii) He shall undertake that he shall not use the vehicle for any illegal purpose.
>
> (iv) He shall undertake that he shall not change appearance of the vehicle.
>
> (v) He shall execute indemnity bond of Rs.15 lakhs (fifteen lakhs) undertaking to forfeit the amount if the appropriate authority arrive at a conclusion that the vehicle or commodity herein is required to be confiscated."

4. The learned Counsel Mr.Joshi for the Petitioner has pointed out that as far as the Petitioner is concerned, the kerosine oil and the liquid base oil contained in all the three tankers were validly purchased and they were stored with the valid licence. Under these

circumstances, the Respondents ought not to continue with the seizure of the vehicles.

5. The learned Counsel for the Petitioner has pointed out that, so far as the tanker in the case of Anirudha Fekuram Nisad is concerned, the said tanker in which nafta was found and with regard to which probably he did not have valid licence, was also allowed to be released by the said order passed by the learned Additional Sessions Judge dated 27th February, 2004.

6. Under the aforesaid facts and circumstances, the learned Counsel for the Petitioner has stated that the Petitioner's three tankers should also be allowed to be released on the same terms and conditions as were mentioned in the aforesaid order dated 27th February, 2004 passed by the learned Additional Sessions Judge in the case of one Anirudha Fekuram Nisad in Criminal Revision No.46 of 2004. The learned AGP for the Respondents submits to the order of the Court.

7. Under the aforesaid facts and circumstances, Rule is made absolute in terms of prayer clause (a). It is directed that all the three vehicles (tankers) belonging to the Petitioner alongwith the contents therein be released on the same terms and conditions as per the order passed by the learned Additional Sessions Judge in the case of Anirudha Fekuram Nisad dated 27th February, 2004. Rule is made absolute accordingly.

(DR.S.RADHAKRISHNAN,J.)